

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

RAYFORD ANDERSON,

Plaintiff

V.

NO. 2:91CV007-S-D

JUDGE ELZY SMITH, ET AL,

Defendants

O P I N I O N

This pro se IFP complaint was filed on January 4, 1991, pursuant to 42 U.S.C. §1983. At the time of filing, the complainant was an inmate in the Mississippi Department of Corrections. The defendants as listed on page 1 of the complaint are Judge Elzy Smith; Judge Paul S. Johnson; Judge John L. Pearson; Sheriff Jesse Bonner; Chief of Police Ben Collins; and Dr. Kingston of Mental Health, Region I. On page 3 of the complaint form, Judge Smith is the only name above listed, along with Judge Harvey T. Ross, and attorney Thomas H. Pearson. On complainant's Certificate of Service all eight are listed. This matter is before the court, sua sponte, for consideration of dismissal of this cause.

Plaintiff has submitted a 106 page complaint (including exhibits) that is largely illegible. It is primarily in narrative form and lists difficulties he has had with various law enforcement officers, court personnel, mental health workers, and numerous other parties during a period of years. While much of the matter

is undated, most of it concerns the years 1977-1980. Some of the matters apparently occurred as late as 1990 but do not seem to be related to any of the defendants.

Because there is no federal statute of limitations for civil rights actions brought pursuant to 42 U.S. §1983, a federal court borrows the forum state's general or residual personal injury limitations period. Owens v. Okure, 488 U.S. 235 (1989); Gartrell v. Gaylor, 981 F.2d 254 (5th Cir. 1993). In Mississippi, that statute is §15-1-49, Mississippi Code Annotated (Supp. 1992), which allows a litigant only three years to file his personal injury action. The statute begins to run at the moment the plaintiff becomes aware that he has suffered an injury or has sufficient information to know that he has been injured. Russel v. Board of Trustees of Fireman, etc., 968 F.2d 489 (5th Cir. 1992), cert. denied, 113 S.Ct. 1266 (1993).

The alleged infractions against the defendants listed in this complaint, occurred no later than 1980, well outside the statute of limitations period. Consequently, the action should be dismissed with prejudice as untimely filed.

A final judgment in accordance with this opinion will be entered.

THIS the _____ day of _____, 1994.

CHIEF JUDGE